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S.B. No. 891

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operations of the Texas Department of Criminal
3 Justice, including conditions of confinement of certain inmates and
4 required training for correctional officers employed by the
5 department.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Chapter 493, Government Code, is amended by
8 adding Sections 493.032, 493.033, and 493.034 to read as follows:

9 Sec. 493.032. REQUIRED TRAINING FOR CORRECTIONAL OFFICERS.

10 (a) The department shall require each correctional officer
11 employed by the department to complete, during the officer's first
12 24 months of service, not less than 280 hours of training,
13 including:

14 (1) 140 hours of on-the-job training; and

15 (2) mental health crisis intervention training.

16 (b) The department shall indicate in the correctional
17 officer's personnel file that the officer has completed the
18 training required by this section.

19 (c) A correctional officer is not required to complete
20 training under this section if the officer's personnel file
21 indicates that the officer has completed the training required by
22 this section during a previous period of employment as a
23 correctional officer.

24 (d) The department may suspend or otherwise discipline a

1 correctional officer who fails to comply with the requirements of
2 this section.

3 Sec. 493.033. CONTINUING EDUCATION REQUIRED FOR
4 CORRECTIONAL OFFICERS. (a) The department shall require each
5 correctional officer employed by the department to complete at
6 least 80 hours of continuing education programs once every 24
7 months. The department may suspend or otherwise discipline a
8 correctional officer who fails to comply with this requirement.

9 (b) As part of the continuing education requirement under
10 Subsection (a), a correctional officer must complete a training and
11 education program that covers 40 hours of core requirements
12 designated by the department.

13 (c) The department shall develop specialized training for
14 correctional officers that may be credited toward continuing
15 education requirements.

16 (d) The department by rule shall provide for a waiver of the
17 requirements of this section if mitigating circumstances exist.

18 (e) The department shall credit a correctional officer with
19 meeting the continuing education requirements of this section if
20 during the relevant 24-month period the correctional officer serves
21 on active duty as a member of the United States military for at
22 least 12 months. Credit for continuing education under this
23 subsection does not affect any requirement to demonstrate
24 continuing weapons proficiency under Section 493.034.

25 (f) The department shall credit toward the continuing
26 education requirements of this section training approved by the
27 Texas Commission on Law Enforcement.

1 (g) A correctional officer is not required to complete
2 continuing education under this section during the period in which
3 the officer is completing training under Section 493.032.

4 Sec. 493.034. CONTINUING DEMONSTRATION OF WEAPONS
5 PROFICIENCY. (a) The department shall designate one or more
6 firearms proficiency officers and require each correctional
7 officer employed by the department to demonstrate weapons
8 proficiency to a firearms proficiency officer at least annually.
9 The department shall maintain records of the weapons proficiency of
10 correctional officers.

11 (b) On request, the department may waive the requirement
12 that a correctional officer demonstrate weapons proficiency on a
13 determination by the department that the requirement causes a
14 hardship.

15 (c) The department by rule shall define weapons proficiency
16 for purposes of this section.

17 SECTION 2. Chapter 501, Government Code, is amended by
18 adding Subchapter G to read as follows:

19 SUBCHAPTER G. RESTRICTIONS ON USE OF ADMINISTRATIVE SEGREGATION

20 Sec. 501.191. DEFINITIONS. In this subchapter:

21 (1) "Inmate with a serious mental illness or other
22 significant mental impairment" means an inmate confined by the
23 department who has a substantial disorder of thought or mood that
24 significantly impairs the inmate's judgment, behavior, capacity to
25 recognize reality, or ability to cope with the ordinary demands of
26 life. The term includes an inmate who has current symptoms of or is
27 receiving treatment for:

1 (A) any of the following Axis I diagnoses as
2 defined by the American Psychiatric Association in the Diagnostic
3 and Statistical Manual of Mental Disorders, fourth edition:

4 (i) schizophrenia, including any
5 schizophrenia subtype;

6 (ii) delusional disorder;

7 (iii) schizophreniform disorder;

8 (iv) schizoaffective disorder;

9 (v) brief psychotic disorder;

10 (vi) substance-induced psychotic disorder,
11 other than intoxication or withdrawal;

12 (vii) bipolar disorder I or II;

13 (viii) major depressive disorder; or

14 (ix) any other psychotic disorder;

15 (B) a mental disorder that includes being
16 actively suicidal;

17 (C) a mental illness that is frequently
18 characterized by breaks with reality or perceptions of reality that
19 lead to significant functional impairment;

20 (D) an organic brain syndrome that results in
21 significant functional impairment if not treated;

22 (E) a severe personality disorder that is
23 manifested by frequent episodes of psychosis or depression and
24 results in significant functional impairment; or

25 (F) an intellectual disability with significant
26 functional impairment.

27 (2) "Mental health professional" means a

1 psychiatrist, psychologist, or nurse practitioner who is licensed
2 to practice in this state.

3 Sec. 501.192. POLICY REGARDING ADMINISTRATIVE SEGREGATION.

4 The department shall adopt policies to ensure that inmates confined
5 in administrative segregation or subject to other restrictive means
6 of confinement are not at risk of recidivism due to unaddressed
7 mental health needs or other impacts of long-term isolation.

8 Sec. 501.1921. IMPLEMENTATION OF RECOMMENDATIONS. In

9 adopting policies under Section 501.192, the department shall
10 implement the recommendations of the Advisory Committee on Isolated
11 Confinement contained in the committee's report to the 85th
12 Legislature. The recommendations must be implemented not later
13 than the time period specified in the report. This section expires
14 September 1, 2019.

15 Sec. 501.193. MENTAL HEALTH UNIT. (a) In this section,

16 "mental health unit" means a residential, therapeutic housing unit
17 established under Subsection (b).

18 (b) The department shall establish a mental health unit to
19 provide:

20 (1) long-term housing to inmates with a serious mental
21 illness or other significant mental impairment in lieu of
22 confinement in administrative segregation; and

23 (2) clinically appropriate and rehabilitative programs
24 and services, including long-term mental health treatment, to
25 inmates described by Subdivision (1).

26 Sec. 501.194. RESTRICTIONS ON PLACEMENT OF CERTAIN INMATES

27 IN ADMINISTRATIVE SEGREGATION. (a) An inmate with a serious mental

1 illness or other significant mental impairment may not be placed in
2 administrative segregation unless exigent circumstances require
3 the placement.

4 (b) If an inmate described by Subsection (a) is placed in
5 administrative segregation for more than 24 hours, the person who
6 made the decision to place the inmate in administrative segregation
7 shall file a report with the unit warden explaining the exigent
8 circumstances that required the placement.

9 (c) If an inmate described by Subsection (a) is placed in
10 administrative segregation for more than four hours, on two or more
11 occasions during a seven-day period, the person who made the
12 decision to place the inmate in administrative segregation shall
13 file a report with the unit warden explaining the exigent
14 circumstances that required multiple placements.

15 Sec. 501.195. MENTAL HEALTH EXAMINATION. (a) Not later
16 than 24 hours after an inmate is placed in administrative
17 segregation, the inmate must be examined by a mental health
18 professional to determine whether the inmate is an inmate with a
19 serious mental illness or other significant mental impairment.

20 (b) If the mental health professional determines that an
21 inmate examined under Subsection (a) is an inmate with a serious
22 mental illness or other significant mental impairment, the
23 department shall transfer the inmate from administrative
24 segregation to a mental health unit established under Section
25 501.193, a mental health facility within the correctional facility,
26 or other appropriate housing that does not include long-term
27 isolated confinement.

1 Sec. 501.196. INVOLVEMENT OF MENTAL HEALTH PROFESSIONAL IN
2 ADMINISTRATIVE SEGREGATION DECISIONS. (a) A mental health
3 professional must participate in all initial and ongoing decisions
4 relating to an inmate's placement in administrative segregation,
5 including all reviews conducted by:

6 (1) the state classification committee; or

7 (2) the administrative segregation committee.

8 (b) Except as provided by Subsection (c), an inmate must be
9 placed in a setting that is less restrictive than administrative
10 segregation if the mental health professional who is participating
11 in the review of the placement or continued placement of the inmate
12 in administrative segregation finds that the inmate's placement in
13 administrative segregation will:

14 (1) increase the likelihood of recidivism by the
15 inmate;

16 (2) cause the inmate to develop a serious mental
17 illness or other significant mental impairment as described by
18 Section 501.191;

19 (3) exacerbate an existing serious mental illness or
20 other significant mental impairment as described by Section
21 501.191;

22 (4) cause or exacerbate suicidal ideation; or

23 (5) otherwise undermine the rehabilitation of the
24 inmate.

25 (c) An inmate is not required to be placed in a less
26 restrictive setting under Subsection (b) if the committee
27 conducting the review determines that, based on evidence presented

1 to the committee that the inmate is a security threat or poses a
2 danger to other inmates or staff, exigent circumstances require the
3 temporary placement of the inmate in administrative segregation.

4 (d) The unit warden and a mental health professional shall
5 conduct a review of an inmate's placement in administrative
6 segregation not later than 24 hours after exigent circumstances are
7 found to exist under Subsection (c) and after each subsequent
8 24-hour period until the inmate can safely be placed in a less
9 restrictive setting.

10 Sec. 501.197. PERIOD OF CONFINEMENT. (a) Except as
11 provided by Subsection (b), the department may not confine an
12 inmate in administrative segregation for more than 365 consecutive
13 days.

14 (b) The department may confine an inmate in administrative
15 segregation for a period that exceeds 365 consecutive days if, not
16 more than 30 days before the inmate's 365th consecutive day in
17 administrative segregation:

18 (1) the state classification committee conducts a
19 review of the inmate's custody classification; and

20 (2) based on the review conducted under Subdivision
21 (1), the executive director approves continuing the inmate's
22 confinement in administrative segregation for a period that exceeds
23 365 consecutive days.

24 Sec. 501.198. REENTRY STEP-DOWN PROGRAM FOR CERTAIN INMATES
25 IN ADMINISTRATIVE SEGREGATION. (a) The department shall establish
26 a program for inmates who are projected to be released or discharged
27 from the department in 180 days or less and who have been confined

1 in administrative segregation for at least 180 consecutive days.

2 (b) A program established under this section must:

3 (1) house inmates described by Subsection (a) in a
4 residential, therapeutic housing unit within a correctional
5 facility in lieu of confinement in administrative segregation;

6 (2) provide clinically appropriate and habilitative
7 programs and services to the inmates; and

8 (3) provide programs and services that are designed to
9 ensure successful reentry, including programs and services that
10 assist the inmates in developing:

11 (A) the ability to obtain and maintain long-term
12 employment and stable housing; and

13 (B) social and life skills, including building
14 and maintaining parenting skills, anger management techniques,
15 positive family interactions, and law-abiding behavior.

16 (c) Not later than 180 days before the date an inmate
17 confined in administrative segregation for at least 180 consecutive
18 days is projected to be released or discharged from the department,
19 the department shall transfer the inmate from administrative
20 segregation to a program established under this section.

21 SECTION 3. Subtitle G, Title 4, Government Code, is amended
22 by adding Chapter 512 to read as follows:

23 CHAPTER 512. ADVISORY COMMITTEE ON ISOLATED CONFINEMENT

24 Sec. 512.001. DEFINITIONS. In this chapter:

25 (1) "Committee" means the Advisory Committee on
26 Isolated Confinement.

27 (2) "Correctional facility" means a facility operated

1 by or under contract with the department.

2 (3) "Isolated confinement" means prolonged
3 confinement of an inmate in a cell, typically 22 hours or more per
4 day, with very limited time spent outside the inmate's cell and
5 severely restricted activity, movement, and social interaction,
6 whether pursuant to disciplinary, administrative, or
7 classification action.

8 Sec. 512.002. CREATION. The Advisory Committee on Isolated
9 Confinement is created.

10 Sec. 512.003. COMPOSITION. (a) The committee is composed
11 of the following 14 members:

12 (1) the executive director of the department or the
13 executive director's designee;

14 (2) the director of the department's health services
15 division or the director's designee;

16 (3) the director of the Texas Correctional Office on
17 Offenders with Medical or Mental Impairments or the director's
18 designee;

19 (4) the presiding officer of the Correctional Managed
20 Health Care Committee or the presiding officer's designee;

21 (5) one representative designated by the American
22 Federation of State, County, and Municipal Employees Texas
23 Correctional Employees Council;

24 (6) one representative designated by Disability
25 Rights Texas;

26 (7) one representative designated by Mental Health
27 America of Texas or, if Mental Health America of Texas does not

1 designate a representative, the Hogg Foundation for Mental Health;

2 (8) one representative designated by the National
3 Alliance on Mental Illness or, if the National Alliance on Mental
4 Illness does not designate a representative, the Meadows Mental
5 Health Policy Institute; and

6 (9) six members appointed by the governor, consisting
7 of:

8 (A) one representative of a nonprofit entity
9 involved with the reintegration of inmates;

10 (B) one representative of a faith-based
11 organization involved with the reintegration of inmates;

12 (C) one representative of an organization
13 composed of families of inmates;

14 (D) one member who was convicted of a criminal
15 offense in this state;

16 (E) one member who has expertise in criminal
17 justice and mental health issues and who is independent of the
18 department; and

19 (F) one member who has expertise in issues
20 related to administrative segregation, seclusion, or solitary
21 confinement and who is independent of the department.

22 (b) The governor shall designate a member of the committee
23 to serve as presiding officer.

24 Sec. 512.004. MEETINGS. The committee shall meet at the
25 times and places that the presiding officer determines are
26 appropriate.

27 Sec. 512.005. DUTIES. The committee shall:

1 (1) in consultation with the department, conduct a
2 comprehensive review of isolated confinement policies and
3 practices in correctional facilities in this state;

4 (2) request from the department information and data
5 relating to the use of isolated confinement;

6 (3) make findings and policy recommendations relating
7 to the use of isolated confinement in correctional facilities in
8 this state, including recommended methods to:

9 (A) reduce the number of inmates housed in
10 isolated confinement;

11 (B) ensure proper treatment and care of inmates
12 housed in isolated confinement who have a serious mental illness or
13 other significant mental impairment;

14 (C) provide inmates housed in isolated
15 confinement with increased access to mental health treatment,
16 services, and programs, including programs that provide for
17 increased social interaction or increases in the amount of time an
18 inmate is allowed out of the inmate's cell; and

19 (D) implement programs that provide for less
20 restrictive housing based on good behavior;

21 (4) publish the report described by Section 512.006 on
22 a public website; and

23 (5) provide recommendations to the department
24 regarding the establishment of mental health units under Section
25 501.193.

26 Sec. 512.006. REPORT. Not later than December 1, 2016, the
27 committee shall deliver a report of the committee's findings and

1 recommendations made under Section 512.005, including deadlines
2 for the department to implement those recommendations, to the
3 governor, the lieutenant governor, the speaker of the house of
4 representatives, the presiding officers of the Senate Committee on
5 Criminal Justice and the House Committee on Corrections, and the
6 executive director of the department.

7 Sec. 512.007. EXPIRATION. The committee is abolished and
8 this chapter expires August 31, 2017.

9 SECTION 4. Not later than January 1, 2016, the Texas
10 Department of Criminal Justice shall adopt rules as required by
11 Sections 493.033 and 493.034, Government Code, as added by this
12 Act.

13 SECTION 5. (a) Section 493.032, Government Code, as added
14 by this Act, applies only to a correctional officer hired by the
15 Texas Department of Criminal Justice on or after the effective date
16 of this Act. A correctional officer hired before the effective date
17 of this Act is governed by the law in effect immediately before the
18 effective date of this Act, and that law is continued in effect for
19 that purpose.

20 (b) Sections 493.033 and 493.034, Government Code, as added
21 by this Act, apply to a correctional officer employed by the Texas
22 Department of Criminal Justice on or after the effective date of
23 this Act, regardless of whether the officer is hired before, on, or
24 after that date.

25 SECTION 6. (a) Not later than October 1, 2015, each inmate
26 confined in administrative segregation in a facility operated by or
27 under contract with the Texas Department of Criminal Justice on the

1 effective date of this Act must be examined by a mental health
2 professional, as defined by Section 501.191, Government Code, as
3 added by this Act, to determine whether the inmate is an inmate with
4 a serious mental illness or other significant mental impairment.

5 (b) If the mental health professional determines that an
6 inmate examined under Subsection (a) is an inmate with a serious
7 mental illness or other significant mental impairment, the Texas
8 Department of Criminal Justice shall transfer the inmate from
9 administrative segregation to a mental health unit established
10 under Section 501.193, Government Code, as added by this Act, a
11 mental health facility within the correctional facility, or other
12 appropriate housing that does not include long-term isolated
13 confinement.

14 SECTION 7. (a) Not later than November 1, 2015, the
15 governor shall make the appointments required by Section 512.003,
16 Government Code, as added by this Act.

17 (b) The presiding officer of the Advisory Committee on
18 Isolated Confinement shall convene the first meeting of the
19 committee not later than December 1, 2015.

20 SECTION 8. This Act takes effect September 1, 2015.